

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 977**

Introduced by Combs, 32; Chambers, 11; Kremer, 34; Preister, 5;  
Price, 26; Vrtiska, 1

Read first time January 9, 2004

Committee: Business and Labor

A BILL

- 1 FOR AN ACT relating to workers' compensation; to amend section
- 2 48-121, Revised Statutes Supplement, 2002; to provide for
- 3 compensation for permanent disfigurement and scarring;
- 4 and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1               Section 1. Section 48-121, Revised Statutes Supplement,  
2   2002, is amended to read:

3               48-121. The following schedule of compensation is hereby  
4   established for injuries resulting in disability:

5               (1) For total disability, the compensation during such  
6   disability shall be sixty-six and two-thirds percent of the wages  
7   received at the time of injury, but such compensation shall not be  
8   more than the maximum weekly income benefit specified in section  
9   48-121.01 nor less than the minimum weekly income benefit specified  
10   in section 48-121.01, except that if at the time of injury the  
11   employee receives wages of less than the minimum weekly income  
12   benefit specified in section 48-121.01, then he or she shall  
13   receive the full amount of such wages per week as compensation.  
14   Nothing in this subdivision shall require payment of compensation  
15   after disability shall cease.

16              (2) For disability partial in character, except the  
17   particular cases mentioned in subdivision (3) of this section, the  
18   compensation shall be sixty-six and two-thirds percent of the  
19   difference between the wages received at the time of the injury and  
20   the earning power of the employee thereafter, but such compensation  
21   shall not be more than the maximum weekly income benefit specified  
22   in section 48-121.01. This compensation shall be paid during the  
23   period of such partial disability but not beyond three hundred  
24   weeks. Should total disability be followed by partial disability,  
25   the period of three hundred weeks mentioned in this subdivision  
26   shall be reduced by the number of weeks during which compensation  
27   was paid for such total disability.

28              (3) For disability resulting from permanent injury of the

1 classes listed in this subdivision, the compensation shall be in  
2 addition to the amount paid for temporary disability, except that  
3 the compensation for temporary disability shall cease as soon as  
4 the extent of the permanent disability is ascertainable. For  
5 disability resulting from permanent injury of the following  
6 classes, compensation shall be: For the loss of a thumb, sixty-six  
7 and two-thirds percent of daily wages during sixty weeks. For the  
8 loss of a first finger, commonly called the index finger, sixty-six  
9 and two-thirds percent of daily wages during thirty-five weeks.  
10 For the loss of a second finger, sixty-six and two-thirds percent  
11 of daily wages during thirty weeks. For the loss of a third  
12 finger, sixty-six and two-thirds percent of daily wages during  
13 twenty weeks. For the loss of a fourth finger, commonly called the  
14 little finger, sixty-six and two-thirds percent of daily wages  
15 during fifteen weeks. The loss of the first phalange of the thumb  
16 or of any finger shall be considered to be equal to the loss of  
17 one-half of such thumb or finger and compensation shall be for  
18 one-half of the periods of time above specified, and the  
19 compensation for the loss of one-half of the first phalange shall  
20 be for one-fourth of the periods of time above specified. The loss  
21 of more than one phalange shall be considered as the loss of the  
22 entire finger or thumb, except that in no case shall the amount  
23 received for more than one finger exceed the amount provided in  
24 this schedule for the loss of a hand. For the loss of a great toe,  
25 sixty-six and two-thirds percent of daily wages during thirty  
26 weeks. For the loss of one of the toes other than the great toe,  
27 sixty-six and two-thirds percent of daily wages during ten weeks.  
28 The loss of the first phalange of any toe shall be considered equal

1 to the loss of one-half of such toe, and compensation shall be for  
2 one-half of the periods of time above specified. The loss of more  
3 than one phalange shall be considered as the loss of the entire  
4 toe. For the loss of a hand, sixty-six and two-thirds percent of  
5 daily wages during one hundred seventy-five weeks. For the loss of  
6 an arm, sixty-six and two-thirds percent of daily wages during two  
7 hundred twenty-five weeks. For the loss of a foot, sixty-six and  
8 two-thirds percent of daily wages during one hundred fifty weeks.  
9 For the loss of a leg, sixty-six and two-thirds percent of daily  
10 wages during two hundred fifteen weeks. For the loss of an eye,  
11 sixty-six and two-thirds percent of daily wages during one hundred  
12 twenty-five weeks. For the loss of an ear, sixty-six and  
13 two-thirds percent of daily wages during twenty-five weeks. For  
14 the loss of hearing in one ear, sixty-six and two-thirds percent of  
15 daily wages during fifty weeks. For the loss of the nose,  
16 sixty-six and two-thirds percent of daily wages during fifty weeks.  
17 For permanent disfigurement or scarring of any part of the body,  
18 sixty-six and two-thirds percent of daily wages during the number  
19 of weeks determined by the compensation court to be just but not  
20 beyond three hundred weeks.

21 In any case in which there is a loss or loss of use of  
22 more than one member or parts of more than one member set forth in  
23 this subdivision, but not amounting to total and permanent  
24 disability, compensation benefits shall be paid for the loss or  
25 loss of use of each such member or part thereof, with the periods  
26 of benefits to run consecutively. The total loss or permanent  
27 total loss of use of both hands, or both arms, or both feet, or  
28 both legs, or both eyes, or hearing in both ears, or of any two

1    thereof, in one accident, shall constitute total and permanent  
2    disability and be compensated for according to subdivision (1) of  
3    this section. In all other cases involving a loss or loss of use  
4    of both hands, both arms, both feet, both legs, both eyes, or  
5    hearing in both ears, or of any two thereof, total and permanent  
6    disability shall be determined in accordance with the facts.  
7    Amputation between the elbow and the wrist shall be considered as  
8    the equivalent of the loss of a hand, and amputation between the  
9    knee and the ankle shall be considered as the equivalent of the  
10   loss of a foot. Amputation at or above the elbow shall be  
11   considered as the loss of an arm, and amputation at or above the  
12   knee shall be considered as the loss of a leg. Permanent total  
13   loss of the use of a finger, hand, arm, foot, leg, or eye shall be  
14   considered as the equivalent of the loss of such finger, hand, arm,  
15   foot, leg, or eye. In all cases involving a permanent partial loss  
16   of the use or function of any of the members mentioned in this  
17   subdivision, the compensation shall bear such relation to the  
18   amounts named in such subdivision as the disabilities bear to those  
19   produced by the injuries named therein. In any case in which there  
20   is permanent disfigurement or scarring in addition to a permanent  
21   loss of the use or function of any of the members mentioned in this  
22   subdivision, the compensation court may allow such additional weeks  
23   of compensation on account thereof as it deems just based upon  
24   sixty-six and two-thirds percent of daily wages during such period  
25   but total compensation shall not extend beyond three hundred weeks.

26            If the employer and the employee are unable to agree upon  
27   the amount of compensation to be paid in cases not covered by the  
28   schedule, the amount of compensation shall be settled according to

1 sections 48-173 to 48-185. Compensation under this subdivision  
2 shall not be more than the maximum weekly income benefit specified  
3 in section 48-121.01 nor less than the minimum weekly income  
4 benefit specified in section 48-121.01, except that if at the time  
5 of the injury the employee received wages of less than the minimum  
6 weekly income benefit specified in section 48-121.01, then he or  
7 she shall receive the full amount of such wages per week as  
8 compensation.

9 (4) For disability resulting from permanent disability,  
10 if immediately prior to the accident the rate of wages was fixed by  
11 the day or hour, or by the output of the employee, the weekly wages  
12 shall be taken to be computed upon the basis of a workweek of a  
13 minimum of five days, if the wages are paid by the day, or upon the  
14 basis of a workweek of a minimum of forty hours, if the wages are  
15 paid by the hour, or upon the basis of a workweek of a minimum of  
16 five days or forty hours, whichever results in the higher weekly  
17 wage, if the wages are based on the output of the employee.

18 (5) The employee shall be entitled to compensation from  
19 his or her employer for temporary disability while undergoing  
20 physical or medical rehabilitation and while undergoing vocational  
21 rehabilitation whether such vocational rehabilitation is  
22 voluntarily offered by the employer and accepted by the employee or  
23 is ordered by the Nebraska Workers' Compensation Court or any judge  
24 of the compensation court.

25 Sec. 2. Original section 48-121, Revised Statutes  
26 Supplement, 2002, is repealed.